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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,952	01/09/2002	Joseph Ross McNeal	501124.01	6374

7590

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EXAMINER

SAKRAN, VICTOR N

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/043,952

Applicant(s)
McNEAL

Examiner
VICTOR SAKRAN

Art Unit
3677



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 9, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5, drawn to a buckle assembly for securing and adjusting a strap, classified in class 24, subclass 163 R.**
- II. Claims 6-18, drawn to a goggle assembly for securing goggles during use, classified in class 2, subclass 425.**
- III. Claims 19-21, drawn to a method for replacing a strap associated with a pivotable member in a buckle assembly, and a releasing force applied on the opposing sides of the frame of the buckle in order to flex the frame into a second position for detaching the pivotable member from the buckle assembly, classified in class 29, subclass 426.1+**

2. The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I, and Group II, are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not

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require the particulars of the subcombination as claimed because the subcombination has separate utility, such as the buckle assembly of Group I, as claimed can be used separately for securing other objects, wherein the goggle assembly of Group II, is not required for Group I, as claimed.

3. Inventions Group I, and Group III, are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the product of Group I, as claimed can be practiced with another materially different product such as by using a snap type connecting means for attaching and detaching the pivotable member into the frame of Group I, as claimed without flexing the frame into a second position for detaching its pivotal member as claimed in Group III.

4. Inventions Group II, and Group III, are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the

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product of Group II, as claimed can be practiced with another materially different product such as by using a snap type connecting means for attaching and detaching the pivotable member into the frame of Group II, as claimed without flexing the frame into a second position for detaching its pivotal member as claimed in Group III.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and the search required for Group I, is not required for Groups II, and III, restriction for examination purposes as indicated is proper.

7. Because these inventions are distinct for the reasons given above and the search required for Group II, is not required for Group III, restriction for examination purposes as indicated is proper.

8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Sakran whose telephone number is (703) 308-2224.

The examiner can normally be reached on Monday-Thursday from 6:30 AM - 5:00 PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann, can be reached on (703) 308-4115. The fax phone number for this Group is (703) 872-9326 (before final) or (703) 872-9327 (after final). Customer Service fax can be reached at (703) 872-9325.

11. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.


VICTOR SAKRAN
PRIMARY EXAMINE
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February 24, 2003